

DNREC NEWS

The Delaware Department of Natural Resources and Environmental Control

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Ruth Ann Minner
Governor

John A. Hughes
Secretary

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Massive Bluefin Tuna Outweighs Tautog by 851 Pounds, But Both Are State Record Breakers



Doug Messeck



Niel W. Herman

RECORD BREAKERS: Pictured at left, Dan Dillon of Herndon, Va., is dwarfed by his 873 pound bluefin tuna caught while aboard the charter boat, Captain Ike II. Pictured at right, Glenn Cave of Dagsboro, Del. and son, Brad, hold the 21 pound, 4 ounce tautog caught near Lewes.

The largest tuna on Delaware record, an 873 pound bluefin, was caught Saturday, July 2 by Dan Dill of Herndon, Va. aboard the charter boat, Captain Ike II, about 40 miles off-shore from the Indian River Inlet.

The meaty tuna was the second fish to break a state record in less than a month. A 21 pound, 4 ounce tautog caught Saturday, June 18 by Glenn Cave of Dagsboro, Del. 100 yards off the near wall of Harbor of Refuge Light in the Delaware Bay near Lewes topped the previous 19 pound, 15 ounce state record tautog caught in 2002.

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Calendar

*For information or registration for park events, please contact individual park offices and the parks website at: www.destateparks.com
A listing of park offices follows the calendar.*

JULY

6 – Public workshop on *Regulations Governing Storm Water Discharges Associated with Industrial Activities*, 6-7 p.m. (Part 2, Special Conditions for Storm Water Discharges Associated with Construction Activities) and 7-9 p.m. (Part 1 – Baseline General Permit), Delaware Technical & Community College, Stanton Campus, Room A116. Contact Amber Mooer, (302) 739-9946 or Elaine Webb, (302) 739-9921.

7 – Public hearing on administrative penalty assessment for D&B Products (Multi-Tech), 9 a.m., Secretary's Conference Room, Richardson and Robbins Building, Dover, Del. Contact Karen Mattio, (302) 739-9402.

7 – Public Workshop on *Regulations Governing Storm Water Discharges Associated with Industrial Activities*, 6-7 p.m. (Part 2, Special Conditions for Storm Water Discharges Associated with Construction Activities) and 7-9 p.m. (Part 1 – Baseline General Permit), Delaware Technical & Community College, Terry Campus, Room 400A. Contact Amber Moore, (302) 739-9946 or Elaine Webb, (302) 739-9921.

13 - Wastewater Facilities Advisory Council meeting, 9 a.m., Delaware Technical and Community College, Conference Room 427, 1832 N. DuPont Parkway, Dover. Contact Alan Farling or Janet Rettig, (302) 739-9941.

14 – Public workshop on *Regulations Governing Storm Water Discharges Associated with Industrial Activities*, 6-7 p.m. (Part 2, Special Conditions for Storm Water Discharges Associated with Construction Activities) and 7-9 p.m. (Part 1 – Baseline General Permit), Delaware Technical & Community College, Owen Campus, Room 540E-H. Contact Amber Moore, (302) 739-9946 or Elaine Webb, (302) 739-9921.

Park Offices:

Brandywine Creek State Park, (302) 577-3534; Nature Center, (302) 655-5740

White Clay Creek State Park, (302) 368-6900; Nature Center, (302) 368-6560

Bellevue State Park, (302) 577-3390; Arts Center, (302) 577-6540

Trap Pond State Park, (302) 875-5153; Nature Center, (302) 875-5163

Lums Pond State Park, (302) 368-6989; Nature Center, (302) 836-1724

Fort Delaware State Park, (302) 834-7941

Killens Pond State Park, (302) 284-4526

Cape Henlopen State Park, (302) 645-8983; Nature Center, (302) 645-6852

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State Record Breakers continued from page 1

The tuna was caught with an 80 pound test monofilament line on an 80 pound class reel using a bluefish fillet as bait. The huge fish weighed 551 pounds more than the previous 322 pound record bigeye tuna caught in 1992.

According to the captain of the charter boat that hauled in the tuna, Dave Collins of Frankford, it took all six men aboard a couple of hours to heave the big tuna onto the boat. The bluefin tuna was weighed at the Hook'em and Cook'em weigh-in station at the Indian River marina. Aaron Hurd of DNREC's Division of Fish and Wildlife, officially identified and recorded the weight of the giant bluefin tuna at 7 a.m. July 2.

Cave caught his record taugog while bottom fishing with green crabs. "I knew when I pulled it in that it could be a record," Cave said. "On my scales at home it was 22 pounds so I took it to B&R Tackle in Bethany Beach for an official weigh in. They said it was the biggest tog they'd ever seen. The biggest tog I'd caught before this was about 7 or 8 pounds and we thought that was a big fish." State Parks Ranger Andy Miller confirmed the catch.

Tautog are a highly prized game fish because of their fighting ability and taste. They have been documented to be long-lived (30-plus years), late-maturing (3-4) years, slow growing and are found around structures such as pilings, rocks and artificial reefs.

Cave won a citation in the state's Sport Fishing Tournament, which runs from Jan. 1 to Dec. 31 each year to document state catches. The tournament recognizes recreational anglers who catch one of 13 freshwater species or one of 23 saltwater species exceeding or meeting a minimum weight for each particular species.

According to Jordan Zimmerman, director of the Sport Fishing Tournament sponsored by the Division of Fish and Wildlife, Dillon will receive a citation for his tuna after the entry forms (filled out by the weigh master and signed by Dillon) are received by the department, possibly sometime this week. At the end of the calendar year, winners in all categories are celebrated at an awards banquet.

The tournament is open to the public and there is no entry fee.

Rules for the tournament can be found in the department's 2005 Delaware Fishing Guide, on the department's web site at: <http://www.dnrec.state.de.us/fw/fishtour.htm> or by calling Fisheries, (302) 739-4782.

State Park Fee Increases to Go Into Effect July 23

Beginning July 23, Delaware's state parks will be instituting the first significant fee increase since 1986. The fee hikes are expected to generate a much-needed \$1.1 million in revenue. Users have historically contributed at least 65 percent of the costs of maintaining state parks through the fees charged.

"This is not a windfall," said State Parks Director Charles A. Salkin, "The increases will offset the rising costs to operate the state parks in the consistent, clean and safe manner that the public has come to expect. Plus, we know that by maintaining our high satisfaction rating for all levels of park management, we draw tourists from out of state, which adds to the economic benefits to the state and the surrounding communities as well as the parks. The cost of operating any business

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has increased dramatically over the past two decades since our fees were last changed and our state park system is no exception.”

At present, most of the parks charge a \$2.50 daily entrance fee per vehicle for Delaware residents, \$5 for out-of-state vehicles. The new fee schedule approved by the General Assembly raises daily entrance fees for the inland parks to \$3 for residents, \$6 for non-residents. This includes Trap Pond, Killens Pond, Fox Point, Brandywine Creek, Lums Pond, White Clay Creek and Bellevue state parks and other sites. The daily entrance fee for the ocean parks (Cape Henlopen, Delaware Seashore, Fenwick Island) will be \$4 for Delawareans and \$8 for non-residents.

Annual passes, which offer unlimited visits to 12 state parks and several nature preserves, will increase from \$20 to \$27 for Delaware residents and from \$40 to \$54 for non-residents.

Seniors will still receive a significant discount. Annual passes for Delawareans will increase from \$10 to \$12 and from \$20 to \$24 for non-residents. The lifetime pass that is now available for Delaware seniors 65 and older will increase from \$45 to \$50.

In addition, the cost of surf fishing permits will be raised from \$50 to \$65 for Delaware residents, from \$100 to \$130 non-residents, from \$40 to \$55 for Delaware seniors and from \$80 to \$110 for non-resident seniors.

“We still believe – and think most park visitors agree – that we offer the best outdoor recreation bargain anywhere,” said Salkin. “Many visitors are surprised by our low fees and have asked for years why we don’t charge more.”

Anyone planning state park visits for the rest of the year can still get an annual pass at the old rate through July 22. They’re available at park offices, at state park headquarters in Dover and on-line at www.destateparks.com.

“The changes favor Delawareans,” Salkin said. “Since residents support the parks through their taxes, it’s only fair for our out-of-state visitors – whom we highly value – to make up part of the difference.”

In 2004, eighty-six percent of the non-residents paying a daily entrance fee visited an ocean beach park. These facilities are the most costly for the Division of Parks and Recreation to operate because of lifeguards, bath houses and other amenities.

Delaware State Parks held the line at \$1 per car per visit and \$5 for an annual pass from 1971, when they first began collecting entrance fees, until 1977. That year daily entrance fees were raised to \$2 per vehicle and annual passes to \$10. In 1986, the daily entrance fee was changed to \$2 per vehicle and 50 cents for each additional passenger. In 1992, this was standardized at \$2.50 per vehicle and \$20 for an annual pass. (Non-resident fees have usually been double those for residents.)

A big part of the added revenue will be used for pay hikes for more than 500 seasonal employees, their first raise in hourly salary in four years.

“When you’re paying just 10 cents above the minimum wage requirement, it’s difficult to recruit, hire and retain a competent work force,” according to Salkin. “These folks are front line visitor contacts who provide invaluable service to our park system in all areas, including revenue collection, grounds maintenance, domestic services for the restroom facilities, environmental education programming, enforcement and lifeguarding at our ocean beaches and our water park.”

For more information, contact Greg Abbott, chief of administration, Division of Parks and Recreation, (302) 739-9200; Clyde Shipman, state parks operations administrator, or Mary Voshell, business services manager, (302) 739-9220.

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Piping Plovers Parents Start Second Family

When piping plover eggs are destroyed by predators, flooding or storms in the first half of the breeding season, it's fairly common for the birds to renest.

It's much rarer for parents to successfully fledge a chick, then start a second family. But that's what seems to have happened at Cape Henlopen State Park's Gordons Pond area, one of the state's two active piping plover nesting sites.

According to Joe Patson, this year's Division of Fish and Wildlife's plover monitor, the pair that fledged the state's first chick of the season a couple of weeks ago has started a new nest that as of Thursday afternoon (June 30) had three eggs. An enclosure was put up around the nest site to protect the nesting pair and their eggs from predators such as gulls, crows, foxes, feral cats and people.

After taking its first flight, the first chick strayed from its parents and has been seen in other sections of the Gordons Pond area. The adults have remained in the area without the chick.



So far this year there have been eight active piping plover nests – four at Cape Henlopen's Point and four at Gordons Pond, including the surprise re-nesting.

"All are enclosed and appear to be doing well," Patson said. "Two chicks from one of the nests at the Point have been spotted and more may be hatching out this weekend, just in time for the fireworks."

To be on the safe side, Patson and plover recovery program coordinator Marnie Pepper will be guarding the Gordons Pond nesting area during the fireworks scheduled for Sunday night.

"The downy, sand-colored chicks are so well-camouflaged that it is virtually impossible to spot them and they may inadvertently be disturbed or injured by recreational activities," Patson said. "Now that they are starting to run across the beach and forage for food at the edge of the surf, it is more important than ever for people and their dogs to respect the restricted areas. Disrupting the birds while they are feeding can create problems that may have a serious impact on their survival."

Last year there were 12 nests in Delaware and eight chicks fledged. "When numbers get this low, it's hard for a species to recover," Patson said. "The Department of Natural Resources has been working hard for years to bring them back to historic numbers. For the most part the public, and especially our volunteer corps, has been very supportive of our efforts and we appreciate that."

The Atlantic Coast population of the piping plover has been federally listed as "threatened" since 1986.

The Gordons Pond beach will be reopened as soon as all eggs hatch and the young birds can fly. Eggs typically hatch in about 25 days and chicks fledge about 25 days after hatching.

The nesting area on the ocean side of the park's Point will reopen Sept. 1. The bayside beach will reopen on Oct. 1.

For more information, contact Marnie Pepper, Division of Fish and Wildlife, (302) 382-4151, or Pat Cooper, Cape Henlopen State Park, (302) 645-8983.

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DNREC Wins \$779,000+ EPA Grant in National Wetlands Program

Proposal for Environmental Outcome Wetland Demonstration Pilot ranked No. 1

The Department of Natural Resources and Environmental Control has been notified by the U.S. Environmental Protection Agency that it will receive \$779,982 in funding over the next three years for protecting and restoring wetlands under the fiscal 2005 Environmental Outcome Wetland Demonstration Pilot. Delaware's proposal ranked No. 1 among the proposals submitted by states and tribes in a national competition.

The grant program links program activities to measurable environmental outcomes, particularly no net loss, net gain, and protection of vulnerable wetlands. Delaware has lost between 40 to 50 percent of its original wetlands and many of the remaining wetlands have been degraded and are no longer performing all their intended functions, which range from preserving water quality and protecting property from damaging floods to providing unique habitats for native plants and animals.

"Wetlands are a critical and too often undervalued natural resource," said DNREC Secretary John A. Hughes. "This process will allow us to effectively expand efforts for wetlands restoration throughout the state and leverage broad resources available through the Green Infrastructure initiative, a component of Governor Minner's Livable Delaware agenda. At the same time, our outreach programs will be expanded with the goal of engaging more Delawareans as stewards in active care and monitoring of wetland habitats near where they live, work or go to school."

The Department's divisions of Water Resources and Fish and Wildlife, and the Green Infrastructure Conservation Committee, which represents all state agencies and other conservation groups that protect, restore and manage wetlands, will implement the grant in a cooperative effort by expanding efforts in three areas: restoration, monitoring and assessment, and education.

DNREC's Green Infrastructure Conservation Coordinator Bill Whitman notes that "the time is long past in which agencies and individuals can effectively restore and preserve our wetlands and a quality environment for future generations by acting alone. We must now cooperate and form partnerships to pool resources and expertise that will adequately meet the formidable challenges that face environmental conservation today."

Under the grant, degraded wetlands and streams in Delaware will be strategically identified and restored, and restoration plans will be developed to identify and address environmental impacts for entire watersheds and the state's green infrastructure. According to Amy Jacobs, environmental scientist with the Division of Water Resources, these restoration plans will be based upon the results of monitoring and assessment efforts used to determine the health of the state's remaining wetlands, type of impacts affecting them and actions needed to correct the problems. All the work will be non-regulatory and coordinated with landowners to protect and restore wetlands on both private and public lands.

The grant will also support the expansion of wetland education and outreach programs, an important component if success is to be achieved, said Gary Kreamer, aquatic resources education coordinator for the Division of Fish and Wildlife. These programs teach all age groups about the importance of wetlands and provide opportunities for hands-on activities to learn about and protect these valuable resources. Educational programs, volunteer monitoring and stewardship efforts will utilize approaches already developed through the state's Adopt-a-Wetland Program, in concert with the new Project Nature Share arm of the Green Infrastructure program.

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For further information, contact Amy Jacobs, (302) 739-4590, Bill Whitman, (302) 739-9912, or Gary Kremer, (302) 653-2882, x114.

DNREC Investigation Leads to Arrest

Mark C. Brooks of Middletown arrested on multiple charges

The Department of Natural Resources and Environmental Control's Division of Air and Waste Management Enforcement Office, in cooperation with Delaware Capitol Police, arrested Mark C. Brooks, 42, of Middletown, Del. on June 21 after Brooks signed an asbestos removal recertification document at a state office in Dover using a false name. Brooks was taken into custody on several outstanding warrants as well as two new counts of second degree forgery and offering a false instrument.

An investigation began last month when Corporal David Moyer, a DNREC Enforcement Officer, learned that an individual using the name Christopher M. Torres (later identified as Mark C. Brooks) was planning to renew his state certification to remove asbestos. Records uncovered during the investigation showed that the same individual was previously certified for asbestos removal in September 1994 under the name of Mark C. Brooks.

Further investigation revealed that Brooks obtained a Delaware driver license under the name Christopher M. Torres, using a false date of birth and a fraudulent social security number. A check of "wanted persons" records turned up outstanding warrants on Brooks from New Castle County Family Court for failure to make child support payments. Brooks was also wanted by New Castle County Superior Court on a warrant for identity theft and by the Voluntary Assessment Center for failing to pay a traffic fine.

Brooks was committed to the Department of Corrections, awaiting disposition of the charges, after failing to post a \$3000 secured bond.

For further information, contact Captain William McDaniel, DNREC Enforcement (302) 739-9401 or Maria Taylor, DNREC Public Affairs Office (302) 739-9902.

Chronic Wasting Disease Not Found in Delaware Deer

The Delaware Division of Fish and Wildlife announced July 1 that there was no sign of chronic wasting disease (CWD) in white-tailed deer harvested in the state's 2004-2005 muzzleloader and firearms deer hunting season.

As part of the state's ongoing effort to detect the introduction of the disease into Delaware, a total of 300 deer, 100 from each county, was tested out of 14,584 deer harvested. The state's current sampling effort was designed such that if one percent of the deer population had CWD, there would be a 95 percent chance the disease would be detected.

According to Division deer biologist Ken Reynolds, plans are to double the sample size next hunting season so that there will be a 99 percent chance the disease would be detected. Delaware has tested hunter-harvested deer for chronic wasting disease since 2003.

CWD is fatal to deer and elk species. The disease attacks the brain and spinal cord of the animals and is believed to be caused by prions, which are modified proteins. CWD is classified as a transmissible spongiform encephalopathy similar to "mad cow disease" in cattle and scrapie in sheep.

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Thousands of deer have been destroyed across the country in an attempt to contain the disease. Currently, there is no live animal test to confirm the presence of this deadly disease. Confirmation can only be done by euthanizing the deer, then removing and testing the brain stem and retropharyngeal lymph nodes.

Division biologists collected brain and lymph gland samples during the 2004-05 muzzleloader and firearms deer hunting seasons. Testing of the samples was done at the University of Pennsylvania's New Bolton Center Lab of Large Animal Pathology and Toxicology.

CWD has been confirmed in wild deer and elk in Colorado, Wyoming, Nebraska, New Mexico, South Dakota, Wisconsin, Utah, Illinois and, most recently, in New York. It has also been found in captive herds in Colorado, Wyoming, South Dakota, Montana, Nebraska, Kansas, Oklahoma, Wisconsin, Minnesota and New York.

The public is asked to report any deer that appear sick to the Division of Fish and Wildlife by calling (302) 653-2883.

While no human has been infected with CWD, hunters and others who handle deer and elk should remain vigilant in their meat-handling techniques. The Division of Fish and Wildlife recommends the following common sense tips for handling any harvested deer:

- Avoid shooting or handling a deer that appears sick.
- Wear latex or rubber gloves when field-dressing or butchering deer.
- Remove all internal organs.
- Remove the meat from the bones and spinal column.
- Do not use household knives or utensils.
- Avoid cutting through bones or the spinal column (backbone).
- Never eat a deer's brain, eyeballs, spinal cord, spleen or lymph nodes.
- If you saw off antlers, cut through a bone, or if you sever the spinal cord with a knife, be sure to disinfect these tools prior to using them for the butchering or removal of meat.
- Remove all fat, membranes and connective tissue from the meat. Note that normal field dressing and trimming of fat from meat will remove the lymph nodes.
- Always wash hands and instruments thoroughly after dressing and processing game meat.
- Use a 50/50 solution of household chlorine bleach and water to disinfect tools and work surfaces. Wipe down counters and let them dry; soak knives and tools for 1 hour.

For more information, contact Ken Reynolds, Division of Fish and Wildlife deer biologist, (302) 653-2883, or Greg Moore, state wildlife administrator, (302) 739-9914.

Ocean View Boat Engine Repair Shop Owner Charged in 3-Year Boat and Motor Theft Spree

Following up on a tip about the location of a stolen boat engine, Division of Fish and Wildlife enforcement agents have solved a 3-year theft spree by the operator of Moonlight Marine, an Ocean View boat engine repair shop. The stolen property is valued at more than \$500,000.

Stanley A. Clark, 43, of Ocean View, Del. was arrested on Wednesday, June 29 and arraigned in JP Court 3, Georgetown. He is charged with 33 counts, including theft, forgery, criminal mischief and criminal trespass. He was released on \$23,000 unsecured bond for a hearing July 11 in the Court of Common Pleas.

On May 9, Senior Corporal Douglas Messeck of the Division's Sussex County field office

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received information about stolen boat motors dating back to May 2002. Throughout the course of a 6-week investigation, 23 victims were interviewed and numerous pieces of evidence, including boats, outboard motors, electronic equipment, business receipts and financial statements were collected.

To date, 11 outboard motors, each valued at \$10,000 or more, have been recovered. Most of them had been sold by Clark to boaters who thought they were making legitimate purchases. Many of the stolen boats were found abandoned in out-of-the-way locations throughout lower Delaware and the lower eastern shore of Maryland.

Investigating officers are still trying to sort out ownership of many of the confiscated items. They would like to hear from anyone who has purchased what they believe to be a new motor from Clark in the past three years. Corp. Messeck or Lt. Aaron Hurd can be reached at (302) 856-5644.

The charges filed against Clark are for:

- Theft where the property value is \$100,000 or more;
- Forgery in the second degree;
- Theft by false pretenses of over \$1,000;
- Criminal mischief with less than \$1,000 in property damage;
- Making a false incident report to a law enforcement officer or agency;
- Criminal trespass in the second degree;
- Criminal trespass in the third degree.

For further information, contact Lt. Aaron Hurd, (302) 856-5644, Chief James Graybeal, (302) 739-9913, or Maria Taylor or Kathleen Jamison in the DNREC Public Affairs Office, (302) 739-9902.

Don't Let Pirates Take Your Boat

Sea pirates are a thing of the romantic past. But, there is a new breed of pirate today. One who preys on boat owners, taking valuable electronics, fishing gear and even entire boats. Boat theft is an ever-growing problem across the country and has become a profitable business for thieves. If your boat is stolen, the chances against your getting it back are great.

"There are common sense precautions you as a boat owner can take to lessen the odds of becoming a victim," says Maj. Bayard Holleger of the Delaware Division of Fish and Wildlife's Enforcement Section. "Remove the key from the ignition when away from your boat, even if only stopping for a short time. If your boat is stored on a trailer, attach a trailer hitch lock or, if stored for long periods, remove a wheel or lock the trailer to a fixed structure. Try to store your boat in a well lit area. When available, store your boat out of sight in a garage."

If attempting to sell your boat, do not leave it with a "FOR SALE" sign displayed in an area where it is unsecured. Your neighbors may see the thief at work and think you just sold it.

If you are mooring your boat in a marina, ask around and select a reputable one. Look for one that has full-time security patrols and good lighting. You may consider installing an alarm or engine cut-off device. And remember, keep valuable electronics and fishing gear out of sight when you are not present or remove them when you leave.

Should your boat or equipment be stolen, be prepared. "Record all serial and identification numbers and store them at home," Holleger advises. Many boat owners mark their equipment with their driver's license number. This makes it easier for police to identify the owner. Another good

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idea is to hide another set of identification numbers on your boat in case the thief removes the original set. Don't leave registration and title papers on the boat when it is not being used and take photos of your boat and its equipment. Finally, protect your investment with a boat owner's insurance policy.

For further information, contact Maj. Bayard Holleger (302) 739-3440 or Maria Taylor or Kathleen Jamison in the DNREC Public Affairs Office (302) 739-9902.

DNREC to Hold Three Public Workshops on Regulations Governing Storm Water Discharges Associated with Industrial Activities

Workshops set for July 6, 7 and 14 on draft revisions to regulations

The Surface Water Discharges Section of the Department of Natural Resources and Environmental Control's Division of Water Resources, in conjunction with the Department's Sediment and Stormwater Program, will hold three public workshops next month – one in each county – on proposed revisions to the Regulations Governing Storm Water Discharges Associated with Industrial Activities.

The public workshops will be held July 6 at Delaware Technical and Community College's Stanton Campus in Christiana, Room A116; July 7 at Delaware Technical and Community College's Terry Campus in Dover, Room 400A; and July 14 at Delaware Technical and Community College's Owens Campus in Georgetown, Room 540E-H.

The workshops will each begin with a session from 6 to 7 p.m. on Part 2 of the regulations, which addresses special conditions for storm water discharges associated with construction activities, followed by a session from 7 to 9 p.m. on Part 1 which addresses the baseline general permit.

The regulations, required by law to be reissued every five years, will be revised to include additional federal requirements for discharges of storm water associated with industrial activities.

The two major revisions are: a conditional no exposure exclusion that allows facilities with industrial materials and activities entirely sheltered from storm water a simplified way to comply with permitting requirements by submitting a "No Exposure" certification form for exclusion from monitoring and storm water plan requirements included in their permits; and benchmark monitoring which requires facilities with a high potential to discharge a pollutant at concentrations of concern to conduct semi-annual analytical monitoring of samples for comparison with benchmark monitoring concentration values used for indications of potential impairment of water quality in water bodies receiving the storm water discharge.

Copies of the draft version of the revised regulations can be found at the following email addresses:

<http://www.dnrec.state.de.us/water/2000/Sections/SurfWater/Library/draftgswr.pdf> - The General Permit Program; and <http://www.dnrec.state.de.us/DNREC2000/Divisions/Soil/Stormwater/StormWater.htm> - Part 2: Special Conditions for Storm Water Discharges Associated with Construction Activities.

Contact Amber Moore, (302) 739-9946 for questions regarding the general permit program and Elaine Webb, (302) 739-9921 for questions regarding construction activities.

DNREC Seeks Public Comment on Draft Statewide Activity Approval

The Department of Natural Resources and Environmental Control's Wetlands and Subaqueous

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Lands Section is soliciting public comments until July 12 concerning a draft Statewide Activity Approval (SAA) pertaining to artificial lagoon systems.

If adopted, the draft Statewide Activity Approval will provide an abbreviated permit application form and a shorter application process for qualifying projects. The projects include new construction or repair/replacement of certain docks, piers, boat lifts, rip-rap, bulkheads, boat ramps and other structures in artificial lagoon systems within the State of Delaware.

For additional information, please call the Permits section of the Division of Water Resources, (302) 739-9943.

Public Hearing on Penalty Order for D & B Products Set for July 7

In response to a request for a public hearing on an Administrative Penalty Assessment and Secretary's Order issued to D&B Products (Multi-Tech), the Department will hold a public hearing at 9 a.m. Thursday, July 7 in the Secretary's Conference Room, Richardson and Robbins Building, 89 Kings Highway, Dover, Del.

The administrative penalty was assessed to D & B Products on February 25, 2005, for violation of Delaware's regulations governing the control of air pollution. The order includes a cash penalty of \$7,500 and an additional \$1,185.20 as cost recovery reimbursement to the Department for expenses associated with its investigation.

The air permit for the facility requires that the company submit an annual compliance report by Feb. 1 of each year. The company was penalized for not submitting a complete 2003 Annual Compliance Certification to the Department by Feb. 1, 2004, as required by its Regulation No. 30 operating permit.

For further information, contact Kathy Mattio, Air Quality Management Section (302) 739-9402 or Jennifer Knotts, Public Affairs Office (302) 739-9902.

Formosa Plastics Corporation Settles Federal-State Lawsuit over Environmental Violations at Delaware City Plant

Delaware company to pay \$450,000 penalty and reduce vinyl chloride emissions

The Delaware Department of Natural Resources and Environmental Control, the Department of Justice, the U.S. Attorney's Office for the District of Delaware and the U.S. Environmental Protection Agency announced June 28 that Formosa Plastics Corporation has settled a joint federal-state lawsuit over excess vinyl chloride emissions and other violations of federal and state environmental laws at Formosa's facility in Delaware City, Del.

In settlement papers filed June 28 in federal court in Wilmington, Del., Formosa has agreed to take several steps to comply with environmental regulations, pay a \$450,000 penalty, and take additional measures to reduce vinyl chloride emissions, including an \$840,000 project that exceeds federal and state legal requirements.

"This settlement provides another strong example of our efforts to enforce environmental laws, and it clearly benefits the people of Delaware who live near this facility," said Kelly A. Johnson, Acting Assistant Attorney General for the Justice Department.

"All evidence indicates that vinyl chloride is a substance meriting significant concern and, through this agreement, the citizens of Delaware will be exposed to less of it," said Colm F.

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Connolly, U.S. Attorney for the District of Delaware. “Of particular importance is the manner in which the state and federal agencies worked together to achieve the common goal – the improvement of the environment in Delaware. The superb cooperation experienced in this case will be the standard in the future and I fully commit the resources of my office to assist both state and federal agencies in improving the environment in Delaware.”

“We are pleased that this settlement requires Formosa to go beyond compliance and take immediate steps to reduce vinyl chloride emissions. The reductions will produce real health benefits for the people of Delaware,” said Donald S. Welsh, EPA regional administrator for the mid-Atlantic region.

“We appreciate the cooperation that Formosa has demonstrated in reaching this innovative agreement,” said Delaware Department of Natural Resources and Environmental Control Secretary John A. Hughes. “The commitments made by Formosa will further reduce emissions of vinyl chloride below regulatory standards—actions that will benefit the citizens of Delaware and our environment.”

This settlement is a win-win situation for Delaware,” said Delaware Attorney General M. Jane Brady. “Vinyl chloride emissions are being reduced, which improves the environment for Delaware citizens, and state and federal agencies have once again forged an alliance to jointly ensure compliance with federal and state environmental laws.”

Formosa’s Delaware City plant emits vinyl chloride, a toxic chemical regulated under the Clean Air Act which is widely used in the manufacturing of polyvinyl chloride (PVC). Exposure to polyvinyl chloride emissions has been linked to adverse human health effects including liver cancer, other liver diseases, and neurological disorder. Vinyl chloride is also considered highly likely to be carcinogenic in both humans and animals. For more information on the health and environmental hazards of vinyl chloride, see <http://www.epa.gov/ttn/atw/hlthef/vinylchl.html>.

In June 2003, EPA and DNREC inspectors documented violations of vinyl chloride emission standards and other environmental regulations. The federal and state complaints, filed today along with a proposed consent decree, allege several violations, including the following:

- Excess emissions of vinyl chloride, and other violations of the Clean Air Act’s vinyl chloride monitoring, reporting, and leak detection requirements;
- Violations of federal and state hazardous waste storage regulations;
- Clean Water Act violations, including inadequate water pollution monitoring and failure to prepare and implement an oil spill prevention and control plan;
- Failure to timely notify federal, state and local emergency response officials of significant vinyl chloride emissions;

The settlement also includes an innovative incentive program that requires the company to meet stringent future goals for reductions of vinyl chloride emissions or, alternatively, pay significant stipulated penalties. Given the concerns with the health effects of vinyl chloride, Formosa’s binding agreement to immediately reduce its current vinyl chloride permit limit from 1,000 parts per million (ppm) on an annual plant specific basis to a rolling 12-month weighted average of 750 ppm is very significant, according to the EPA.

Moreover, the agreement requires that Formosa use its reasonable best efforts over a period of three years to further reduce the vinyl chloride emissions to a goal of 550 ppm on a 12-month weighted average and incorporate that new level into its permit limit. A failure to reach this goal of 550 ppm for its permit limit will result in additional penalties under the agreement.

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Additionally, as part of the settlement, Formosa has agreed to implement a supplemental environmental project (SEP) involving automation of certain manufacturing process equipment within the facility that will further reduce vinyl chloride emissions, including the risk of accidental discharges of vinyl chloride. The SEP, estimated to cost \$840,000, which includes new control equipment and techniques for the PVC manufacturing process, exceeds federal and state legal requirements.

Also, the consent decree includes injunctive relief designed to ensure continuing compliance with federal and state environmental laws. Formosa has agreed to implement enhanced procedures and employee training to reduce emissions of vinyl chloride and other pollutants, improve leak detection at the facility, and improve its solid and hazardous waste program. Additionally, Formosa has agreed to reduce the level of vinyl chloride contained in wastewater entering certain aeration basins in the facility. This operational change in addition to other injunctive relief is expected to eliminate the possibility of hazardous waste entering the aeration basins.

The proposed consent decree is subject to a 30-day public comment period and final court approval. As part of the settlement, the company has neither admitted nor denied liability for the alleged violations.

The proposed consent decree is available in the “Hot Topics” section of the DNREC website: www.dnrec.state.de.us

For further information, contact Rudolph Contreras, U.S. Attorney’s Office, (302) 573-6277 ext. 154, or David Sternberg, EPA Region III (215) 814-5548 or DNREC Public Affairs (302) 739-9902.

Wastewater Facilities Advisory Council Meeting Set for July 13

The Wastewater Facilities Advisory Council will meet at 9 a.m. Wednesday, July 13 at Delaware Technical and Community College, Conference Room 427, 1832 N. DuPont Parkway, Dover.

Agenda items include: Administrator’s Report; Financial Reports; Statewide Wastewater Facility Assessment; Rehoboth Beach Effluent Disposal Study; Water Pollution Control Revolving Fund – Project Priority List Criteria Revisions; Interest Rate Policy for the Water Pollution Control Revolving Fund and the Wastewater Management Account; and Wastewater Facilities Advisory Council – 2006 Long Range Plan.

For further information, contact Alan Farling or Janet Rettig, DNREC Financial Assistance Branch, Division of Water Resources, (302) 739-9941.

DNREC Requests Public Comment on Cleanup Proposal for Arsenic

Analysis results in proposal for risk-based cleanups and interim level of 11 ppm

The Department of Natural Resources and Environmental Control on June 24 issued its analysis of Delaware’s issues with arsenic in soil and a proposal for residential cleanup goals to be set at the average naturally occurring background level of 11 parts per million (ppm) or on a site-specific risk or background basis. Further, the Department set forth a plan for requesting and incorporating significant public input before adopting the final cleanup level. During the interim time prior to final adoption, the proposed action levels will be effective.

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The document was prepared by DNREC's Division of Air and Waste Management staff in collaboration with the Division of Water Resources, the Division of Public Health, the Department of Agriculture and the Department of Justice, in response to Governor Ruth Ann Minner's June 9, 2005, directive to DNREC Secretary John A. Hughes to "review...and propose appropriate standards and policies" for arsenic in soil, which would be protective of the health and safety of Delawareans.

The document is intended to be the basis for dialogue between DNREC staff and interested public at a series of workshops and public meetings which will be announced soon and then published in the August issue of the State Register of Regulations. The document describes the basis for setting cleanup goals and considers several policy options and alternative standards, summarizing the implications for each option. The document provides a comprehensive review and analysis of scientific issues and DNREC's rationale for its proposal and supporting information. It has been written for the general public rather than for a technical audience.

DNREC is encouraging public participation and will host a minimum of one public workshop in each county, involve all interested advisory committees and offer to attend any civic or other organization meeting to discuss the proposal. DNREC will record and review all comments submitted during the workshops, advisory committee meetings or in written form.

The goal of DNREC's proposal is to set cleanup at naturally occurring background concentration levels thereby reducing public exposure to arsenic as much as possible. For carcinogens like arsenic, Delaware law mandates that cleanup standards be set at levels associated with an incremental lifetime cancer risk increase of one in one hundred thousand or at background. The default goal of 11 ppm meets this risk-based standard.

According to DNREC's analysis, a cleanup goal lower than 11 ppm would not be technically feasible because naturally occurring concentrations in Delaware soils are higher in many situations.

The analysis and proposal is available under the Hot Topics link on: www.dnrec.state.de.us and at DNREC's Division of Air and Waste Management offices at: (mailing addresses) 391 Lukens Drive, New Castle, DE 19720 and 89 Kings Highway, Dover, DE 19901.

For further information, contact Kathleen Stiller-Banning, Division of Air and Waste Management, (302) 395-2600 or Maria Taylor, Public Affairs Office (302) 739-9902.

DNREC Recognizes Sport Fishing Tournament Winners

The Department of Natural Resources and Environmental Control's Division of Fish and Wildlife announced the winners of the 2004 Delaware Sport Fishing Tournament at an awards banquet in June. The contest drew 1,384 entries. The winners are:

Freshwater Category

Largemouth Bass, 7 lbs. 14 oz., Robert Morris, Smyrna, Del.

Smallmouth Bass, 4 lbs. 2 oz., Curt Barkus, New Castle, Del.

Bluegill, 1 lb. 8 oz., Brandon Davies, Bear, Del.

Carp, 25 lbs. 9 oz., Wayne Hockendorn, Dover, Del.

Catfish, 12 lbs., David Williams, Bear, Del.

Crappie (tie), 3 lbs. 2 oz., Cary Scheib, Wilmington, Del., and Tim Solinger, Middletown, Del.

White Perch, 1 lb. 12 oz., Henry H. Vaughn, Milford, Del.

Yellow Perch, 1 lb. 14 oz., Terry Baker, Laurel, Del.

Chain Pickerel, 6 lbs. 8 oz., Ed Raymond, Wilmington, Del.

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Trout, 5 lbs. 5 oz., Bob Paradis, Claymont, Del.
Redear Sunfish, 1 lb. 14 oz., Lawrence Guthrie, Wilmington, Del.

Saltwater Category

False Albacore, 16 lbs. 11 oz., David C. Palmer, York, Pa.
True Albacore, 67 lbs/ 12 oz., John Clarke, Lansdale, Pa.
Black Seabass (tie), 6 lbs. 12 oz., William J. Campbell, Elmont, NY, and Jason Garber, Dover, Del.
Striped Bass, 52 lbs. 8 oz., James L. Southard, Wilmington, Del.
Bluefish, 14 lbs. 12 oz., Earl V. Yoder, Harrington, Del.
Atlantic Croaker (tie), 3 lbs. 1 oz., Don Lockard, Elkton, Md., and Noah P. Johnson, York, Pa.
Dolphin, 29 lbs. 12 oz., Mike Karabin, Jamison, Pa.
Black Drum, 81 lbs., Wayne Andrews, Greenwood, Del.
Flounder, 10 lbs. 8 oz., Nick Yengle, Georgetown, Del.
Kingfish, 1 lb. 10 oz., Paul C. Gerner, Rehoboth, Del.
Spanish Mackerel, 6 lbs. 12 oz., Patrick Burke, Glen Mills, Pa.
Scup (porgy), 2 lbs. 11 oz., Mike Junck, Lewes, Del.
Shark (excl mako), 300 lbs., Bob Casseday, Lewes, Del.
Mako Shark, 241 lbs. 3 oz., Jeff Purdy, Lewes, Del.
Sheepshead, 11 lbs. 7 oz., Rodney C. Shoemaker, York, Pa.
Swordfish, 186 lbs. 3 oz., John Menjik, Central Square, N.Y.
Tautog, 16 lbs. 4 oz., Mike Parkhurst, Milford, Del.
Tuna, 169 lbs. 3 oz., Joe Tatasciore, Allentown, Pa.
Wahoo, 67 lbs. 9 oz., Patrick Rogers, Brookville, Md.
Weakfish (sea trout), 12 lbs. 3 oz., Joseph A. Verciglio, Rehoboth, Del.

For further information, contact Jordan Zimmerman, Division of Fish and Wildlife (302) 739-4782 or Jennifer Knotts, Public Affairs Office (302) 739-9902.

Fish and Wildlife 2005 Artificial Reef Guide Available

Updated guide offers numerous underwater sites for anglers

Saltwater anglers hooked on bottom fishing will have plenty of underwater reef sites to consider in the 2005 Delaware Reef Guide published by the Delaware Division of Fish and Wildlife, Department of Natural Resources and Environmental Control.

This “Bible of Bottom Fishing” is free and gives the precise locations of over 100 waypoints of reef material placed since 1995 in Delaware Bay and the Atlantic Ocean.

According to Jeff Tinsman, the Division’s Reef project manager since 1995, the deployed reef materials include concrete products, vessels, army tanks, ballasted tires and subway cars. The locations range from Site No. 1 off Collins Beach to Site No. 11, which is 16 miles east of Indian River Inlet.

“These sites provide good fishing for structure-oriented fish, such as tautog, black sea bass, triggerfish, Atlantic spadefish and scup, as well as predatory game fish like striped bass, weakfish and bluefish,” said Tinsman.

The Delaware Reef Program is coordinated by the Division of Fish and Wildlife and funded by sportsmen’s dollars through excise taxes paid by anglers on fishing and boating equipment under

the Federal Aid in Fisheries Restoration Act.

To receive a free copy, send your name and mailing address, preferably via email, to: Lena.Pennypacker@state.de.us, or mail to: Lee Pennypacker, 3002 Bayside Drive, Dover, DE 19901. Anglers placed on the list will receive a free, updated guide each year to use when fishing Delaware's reefs.

For more information, contact Jeff Tinsman, Reef Program coordinator, (302) 739-4782, or Melinda Carl, Public Affairs Office, (302) 739-9902

2005 Horseshoe Crab Harvest Closed; 150,000 Quota Met June 23

Division of Fish and Wildlife Director Patrick J. Emory, acting on behalf of Department of Natural Resources and Environmental Control Secretary John A. Hughes, closed the 2005 horseshoe crab harvest by order effective 8 a.m. this morning, June 24, 2005.

The order to close the harvest follows the Division of Fish and Wildlife's determination that the annual 2005 harvest quota of 150,000 horseshoe crabs was met at approximately 8:45 p.m. last evening, June 23, 2005, at the Department's Mahon Road check station.

The order was issued pursuant to Delaware Law and regulations and will be available later today on the Department's web site under "Hot Topics" on the home page at <http://www.dnrec.state.de.us>.

For further information, contact Patrick Emory, (302) 739-9910, Stewart Michels, (302) 739-4782, or Chief James Graybeal, (302) 739-9913.

DNREC Issues Notice of Conciliation Order to Motel Owner for Septic Violations

Department of Natural Resources and Environmental Control Secretary John A. Hughes issued a Notice of Conciliation and Secretary's Order in June to Marcello Valenzano, owner of the Grandview Motel located on DuPont Highway just south of Smyrna, for violations of Delaware's laws and regulations governing septic discharges.

Valenzano owns the commercial property known as Grandview Motel, 1109 S. DuPont Highway, in Kent County, Del. The septic system located on the property has been failing since March 2001. The Department is requiring Valenzano to install a new on-site sewage disposal system or connect to the county sewer system.

In the Conciliation Order, Valenzano was cited for seven violations of Delaware law and regulations including: discharging a pollutant into surface or ground water, discharging untreated wastewater or septic tank effluent directly onto the ground surface or into surface waters of the state and not adequately operating a wastewater system, creating a public health hazard and causing water pollution.

The Notice of Conciliation and Order directs Valenzano to install a temporary holding tank and pump out the tank until a permanent resolution for disposing of the wastewater is completed. Valenzano must obtain a commitment letter from Kent County stating a sewer connection for the motel can be completed within five years or install a replacement septic disposal system. A written record of all pump-out receipts must be submitted to the Department on a weekly basis.

The Department will closely monitor the progress of resolving disposal of the motel's waste-

water.

Valenzano has 30 days to request a public hearing.

For further information, contact Dave Schepens, Ground Water Discharges Section, Division of Water Resources, (302) 739-4761.

**DNREC and Federal Government Offer Landowners
Cost Share Funds for Phragmites Control
*Deadline for 2005 applications is July 15***

The Division of Fish and Wildlife, Department of Natural Resources and Environmental Control is again partnering with the U. S. Department of Agriculture's Natural Resources Conservation Service (NRCS) to offer cost-share assistance to improve wildlife habitat in private wetlands that have been degraded by the pest plant, phragmites.

This partnership enables the financial assistance to be increased to the extent that state and federal money will cover 87.5 percent of the cost, with the landowner chipping in the remaining 12.5 percent. Eligible landowners must have a minimum of five acres of phragmites and a maximum of 200 acres to be spray treated with herbicide. In addition, landowners must agree to have their property treated for three consecutive years.

The phragmites cost share program is intended to treat the problem in undeveloped wetlands, such as tidal or non-tidal freshwater and brackish marshes, ponds, and impoundments. Drainage ditches are not eligible; landowners with phragmites problems in agricultural ditches should contact their county conservation districts. The Division also may exclude areas adjacent to development for safety reasons since the work is done by helicopter.

The phragmites reed is both fast growing and extremely hardy. It has taken over large areas of Delaware wetlands by displacing native plants that provide better wildlife food and cover. Its extensive root system holds dormant reeds in place during the winter, which causes a fire hazard.

A glyphosate-based aquatic herbicide will be used to control the plant. The Division of Fish and Wildlife is responsible for purchasing the herbicide, determining the herbicide application timing and rates, coordinating aerial spraying and providing technical advice.

"The herbicide spraying is all done by helicopter, so only relatively undeveloped wetland areas will be eligible," said Fish and Wildlife biologist Bill Jones. "This program breaks up solid stands of an invasive species and encourages a greater diversity of both plants and wildlife."

The Division of Fish and Wildlife offers the cost sharing approach as an incentive for landowners to be a partner in marsh restoration programs. Last year, 90 landowners took advantage of the cost share program and over 5,700 acres were treated. The program has been in existence since 1986.

This year, with the additional funding, the landowner per-acre cost of phragmites treatment is expected to be only about \$4. "That is an incredible bargain," said Jones. "In some years landowners paid over \$30 per acre."

The federal money is part of NRCS's Wildlife Habitat Incentive Program (WHIP). The new funding brings some procedural changes for applying to the program since two separate applications will be necessary.

"Applications for WHIP assistance must first be ranked, and acceptance into the program will be based on those rankings," notes Sally Kepfer, state resource conservationist for the NRCS. "It is extremely important for landowners to get their applications in by the July 15 deadline so the

rankings can be done in time for the spraying to begin.”

DNREC requires a separate application and paperwork, and all applications will be available at the County USDA Service Centers listed below. DNREC’s portion can be filled out online. Go to <http://www.dnrec.state.de.us/fw/wildlife.htm> and select: “Phragmites Spraying Application.” The deadline for both NRCS and DNREC applications is July 15, 2005.

Applications can be obtained at the following County USDA Service Centers:

New Castle USDA Service Center, 2430 Old County Road, Newark, DE, 19702,

Phone, (302) 832-3100 x3

Kent USDA Service Center, 3500 S. DuPont Highway, Dover, DE 19901,

Phone, (302) 741-2600 x3

Sussex USDA Service Center, 408 N. DuPont Highway, Georgetown, DE 19947, Phone,

(302) 856-3990 x3

The entire program is contingent upon DNREC receiving funding through this year’s State Budget. Projects with the highest environmental significance are funded first. Landowners will be notified of any problems or changes before any contracts are signed.

Interested landowners can contact Bill Jones, (302) 284-4795.

Osprey Nesting Platforms Erected at Woodland Beach and Ted Harvey Wildlife Management Area

The Division of Fish and Wildlife and Delmarva Power have made a pair of homeless ospreys and some Woodland Beach osprey fans very happy.

After a few glitches involving the design of the structure and scheduling of the sky crane helicopter used to lift it into place in the marsh, the 85-foot transmission pole with a 3' by 3' platform secured to the top was finally erected (June 9) and just 18 minutes later the ospreys were trying it out for size.

“Seeing the birds perched on the platform was a great moment,” said Wayne Lehman, the Division’s regional biologist who has been coordinating the efforts. “Even though it’s past the normal nesting season, there’s still a chance that they could produce chicks this year.”

A second osprey nesting platform was installed at the Ted Harvey Wildlife Management Area near Little Creek and a third is scheduled to be placed on Cleaver Island in the Augustine Wildlife Management Area near Odessa.

The poles and helicopter services were donated by Delmarva Power in exchange for use of Division of Fish and Wildlife property for storing equipment during construction of Phase II of a new power line along the Delmarva Peninsula. The platforms were donated by the Delmarva Ornithological Society.

For more information, contact wildlife biologist Wayne Lehman, (302) 284-1077 or (302) 632-7022.

Regulatory Update

Recently Adopted Regulations and Regulations Under Appeal

2003-21: **Amendment to the Total Maximum Daily Loads (TMDLs) for nutrients and oxygen demanding materials for the Murderkill River Watershed.** This action revises the cap in light of recently collected data. It amends the original regulation adopted in December 2001 and applies to the entire watershed including Browns Branch, Double Run, tidal and freshwater portions of the Murderkill River and several ponds and lakes. Contact John Schneider, 739-4590. **Effective date – June 11, 2005**

2003-17: **Amendments to the Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal (Septic) Systems.** This action updates the regulations to include statutory changes that authorize DNREC to establish an inspector license category with inspection protocol for inspecting all septic systems in Delaware, and modifies requirements for the use of a community-sized on-site wastewater system. Contact Jack Hayes, 739-4761. **Effective date – April 11, 2005**

April 21, 2005 – Appeal filed by The Home Builders Association of Delaware with the Environmental Appeals Board.

2003-18: New **“Regulation, 45, Anti-Idling Regulation” of the state’s Regulations Governing the Control of Air Pollution.** This action regulates the idling time for operation of heavy-duty vehicles in Delaware having a gross vehicle weight rating of over 8,500 pounds. The regulation will continue state efforts to reduce emissions of NOx (nitrogen oxides), particulates and other tailpipe pollutants from vehicles operating in the state. Contact Philip Wheeler, 739-4791. **Effective date – April 11, 2005**

2005-01: **Amendments to Tidal Finfish Regulations affecting the 2005 recreational summer flounder fishery and recreational black sea bass fishery.** Delaware can maintain the same management measures used in 2004 for the 2005 recreational summer flounder fishery since the harvest cap was not exceeded in 2004. Another amendment to the tidal finfish regulations eliminates any reference to a closed season for recreational black sea bass anglers in 2005, because the coast wide requirements for recreational black sea bass fishermen in 2005 are a 12-inch minimum size length with a 25-fish creel limit and no closed season. Contact Richard Cole, 739-4782. **Effective date – April 11, 2005**

2004-11: **Amendment to Regulations Governing Tidal Finfish No. 3553: River Herring Creel Limit.** This action establishes a possession limit for river herring at 25 per day unless the possessor has a valid commercial fishing license or a receipt from a commercial fisherman for the river herring. The possession limit was proposed to prevent establishment of a bait fishery for river herring in tidal tributaries. This regulation does not affect normal commercial fishing operations but will impact recreational fishermen who take live river herring as bait for sale. Contact Roy Miller, 739-3441. **Effective date – March 11, 2005**

2004-08: **Amendments to Non-tidal Fishing Regulations.** This action makes it unlawful for anyone to transport, purchase, possess, stock into public or private waters of the state or sell live northern snakehead fishes without the written permission of the Director of the Division of Fish and Wildlife. Contact Roy Miller, 739-3441. **Effective date – March 11, 2005**

97-11: **Implementation of September 27, 1994 MOU among Ozone Transport Commission**

states on development of a regional strategy for control of stationary source Nitrogen Oxide (NOx) emissions. This regulation reduces NOx emissions from fossil fuel fired boilers or indirect heat exchangers with a maximum rated heat input capacity of 250 MMBTU/hr, or more; and all electric generating facilities with a rated output of 15 MW, or more. Contact: Ron Amirikan – 323-4552. **Effective date - April 1, 1999.**

April 16, 1999 - Appealed to Environmental Appeals Board by Motiva Enterprises and Delmarva Power and Light Company; **April 20, 1999 -** Motiva and Delmarva Power filed a civil action for a review of the Order in Superior Court for New Castle County.

Regulatory Actions Underway:

2005-08: Amendments to the Accidental Release Prevention Regulation. This action reflects amendments to the delegated federal rule 40 CFR Part 68 made by the EPA in January 1999, March 2000 and April 2004, undertaken to prevent accidental releases and mitigate consequences of such releases by focusing on prevention measures for extremely hazardous substances as listed. Contact Jay Brabson, 323-4542

2005-07: Amendments to Tidal Finfish Regulations affecting winter flounder. This action would increase the minimum size from 10 inches to 12 inches, establish a possession limit for recreational fishermen of 10 winter flounder per day and establish a 60-day open season per year for recreational fishing for winter flounder. Any open season during March and April must include a 20-day closure period each year for compliance with the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for Inshore Stocks of Winter Flounder. Contact Roy Miller, 739-9914

2005-06: Revisions to Regulations Governing Underground Storage Tank Systems. This action reflects advances in underground storage tank system technology that have occurred since the last revision of the regulations in 1995 to ensure protection of Delaware's natural resources. The regulations impact owners and operators of underground storage tanks greater than 110 gallons containing a regulated substance with the exception of certain classes of heating fuel underground storage tanks. Contact Jill Hall, 395-2500

2005-05: Development and adoption of Total Maximum Daily Loads (TMDLs) for nutrients, oxygen demanding materials, and bacteria for Marshyhope Creek, Choptank River, Chester River, and the Pocomoke River, Delaware. This action will establish a cap (limit) for the amount of nutrients, oxygen demanding materials, and bacteria that can enter the waters of the Marshyhope Creek, Choptank River, Chester River and Pocomoke River. Setting the cap is necessary to improve water quality and help maintain fishable and swimmable waterways for the state's citizens. Contact John Schneider, 739-4590

2005-04: Development and adoption of Total Maximum Daily Loads (TMDLs) for nutrients, oxygen demanding materials, and bacteria for the St. Jones River, Delaware. This action will establish a cap (limit) for the amount of nutrients, oxygen demanding materials, and bacteria that can enter the waters of the St. Jones River from point and nonpoint sources. Setting the cap is necessary to improve water quality and help maintain fishable and swimmable waterways for the state's citizens. Contact John Schneider, 739-4590

2005-03: Development and adoption of Total Maximum Daily Loads (TMDLs) for nutrients,

oxygen demanding materials, and bacteria for the Broadkill River, Delaware. This action will establish a cap (limit) for the amount of nutrients, oxygen demanding materials and bacteria that can enter the waters of the Broadkill River from point and nonpoint sources. Setting the cap is necessary to improve water quality and help maintain fishable and swimmable waterways for the state's citizens. Contact John Schneider, 739-4590

2004-17: Amendment to Regulation 25 "Requirements for Preconstruction Review" of Delaware Regulations Governing the Control of Air Pollution. This action will address the EPA new source review reforms. The Department will evaluate the revised federal requirements; either incorporate, incorporate with changes or not incorporate the new requirements into Regulation 25; and (as required) will ensure that Regulation 25 is overall, at least as stringent as the federal requirements. Contact Gene Pettingill, 323-4542

2004-16: Total Maximum Daily Loads (TMDLs) for nutrients, oxygen demanding materials, and bacteria for Shellpot and Naamans Creek in Delaware. This regulation will establish a cap for the amount of nutrients, oxygen demanding materials and bacteria that can enter the waters of Shellpot Creek and Naamans Creek. This action is necessary to improve water quality and help maintain fishable and swimmable waterways for citizens of the state. Contact John Schneider, 739-4590

2004-15: Amendment to Regulations Governing the Control of Water Pollution. This action would establish a general permit program for Confined Animal Feeding Operations (CAFOs). DNREC developed the proposed regulations cooperatively with the Department of Agriculture, Delaware Nutrient Management Commission, Natural Resources Conservation Service and the University of Delaware. Contact Peder Hansen, 739-5731

2004-14: Amendment to Surface Water Quality Standards. This action will clarify the way in which fecal enterococci determined to be of wildlife origin are considered when implementing water quality standards. Typographical errors in the existing regulation will also be corrected. Contact John Schneider, 739-4590

2004-10: Amendment to Delaware's Phase II Attainment Demonstration State Implementation Plan by completing the mid-course review requirement. Delaware is required to submit to EPA a plan revision to demonstrate its capability of attaining the 1-hour National Ambient Air Quality Standard for ground-level ozone in Kent and New Castle counties in 2005. The mid-course review will analyze Delaware's ambient air quality and emission data to demonstrate (1) adequate progress in emission control has been made under the 1-hour ozone standard that will be revoked in 2005, and (2) such progress is consistent with attaining the new 8-hour ozone standard in 2010. Contact Frank Gao, 323-4542

2004-09: Delaware's proposed 2002 Milestone Compliance Demonstration. This is a required step to attain the 1-hour National Air Quality Standard for ground-level ozone in Kent and New Castle counties. Delaware is required to submit a plan revision for each milestone year (1996, 1999, 2002 and 2005) to demonstrate that the actual emissions of volatile organic compounds and/or oxides of nitrogen in Kent and New Castle counties to not exceed the required emission targets specified in Delaware's Rate-of-Progress Plans. This action is to conduct a compliance analysis for the milestone year of 2002. Contact Frank Gao, 323-4542

2004-07: **Revisions to Regulations Governing Hazardous Substance Cleanup.** This action will establish procedures for implementing the Brownfields Development Program, including participation in the new program, presumptive project and investigation procedures and work plans, public notice requirements and risk sharing agreements. Contact James Poling, 395-2636, Paul Will, 3952626 or Alex Rittberg, 395-2642.

2004-05: **Amendments to Delaware Regulations Governing Solid Waste.** This action would update and enhance various sections of the regulations and help improve understanding and implementation of the solid waste requirements. Contact Karen J'Anthony, 739-3689

2003-24: **Development of a new regulation to be added to the Regulations Governing Solid Waste.** This action would institute a ban on the disposal of yard waste in Delaware landfills, and is a critical part of a larger waste management strategy directed toward environmentally and economically efficient waste management. The waste ban is designed to: conserve capacity at existing landfills; minimize the need to construct new or expand existing landfills; signal the composting and mulching industry that these materials are available for processing and marketing; return this valuable material to the market place as opposed to landfilling it; and reduce the emission of greenhouse gases. Contact James Short, 739-3689

2003-19: **Delaware Coastal Management Program Comprehensive Update and Routine Program Implementation.** This action would update all coastal management program policies to incorporate changes in state statutes, department regulations and executive orders since the last program's September 1998 update. Contact Sarah Cooksey or Bonnie Willis, 739-3451

2003-16: **Development of a State Implementation Plan (SIP) revision to include a case-by-case alternate volatile organic compound reasonably available control technology determination.** This action would address the FP International, Newark, Del. facility's expandable polystyrene packing material manufacturing process. Contact Frank Gao, 323-4542

2003-10: **Development of a new Distributed Generation Regulation covering on-site electric generators of small to medium capacity.** In general, emissions from small and medium size on-site electric generators are currently uncontrolled in Delaware. Most of these units run on fossil fuels such as diesel and contribute to the secondary formation of ground-level ozone and fine particulate matter. Some are used to help utilities meet peak demand periods that frequently correspond with summer ozone action health alert days. This means that emissions from these units are frequently at their highest when the health threat from ozone is at its worst. Use of these units is growing and the Department is initiating this action to specifically control this category of emitters. Contact Al Deramo, 739-4791

2003-09: **Amendment to Regulations Governing the Control of Air Pollution: new section – Requirements for Minor Source Pre-Construction Review (Minor NSR).** This action would ensure that best available emission controls are installed at the time that smaller, but very significant, sources are constructed and modified to help manage Delaware's air resources. Contact Gene Pettingill, 323-4542

2003-07: **Amendments to the Regulations Governing Beach Protection and the Use of Beaches adopted in 1983.** This action would increase the effectiveness of the Coastal Construction Program and improve its protection of the beach and dune system. The amendments would reduce ambiguity,

close possible loopholes and limit the amount and type of construction permitted seaward of the Building Line. Redrawing the building Line, incorporating changes to the Beach Preservation Act and adding new construction standards for waterfront buildings will result in less damage to structures and improvements to the natural dune and beach resource. Contact Maria Sadler, 739-4111

2003-03: Re-issuance of the Regulations Governing Storm Water Discharges Associated with Industrial Activities. The reissued regulations will expand the existing regulations to include additional requirements for discharges of storm water associated with industrial activities. Contact Amber Moore, 739-5731

Public workshops: **July 6**, 6 p.m., Delaware Technical and Community College, Stanton Campus, Christiana, Room A116 **July 7**, 6 p.m., Delaware Technical and Community College, Terry Campus, Room 400A **July 14**, 6 p.m., Delaware Technical and Community College, Owens Campus, Georgetown, Room 540E-H

2003-02: Amendment to Subpart A, Regulation 38, Emission Standards for Hazardous Air Pollutants for Source Categories. These general provisions establish applicability, definitions, compliance, notification, performance testing, monitoring, record keeping and reporting requirements common to the emission standards for hazardous air pollutants promulgated under Regulation 38. This action affects any owner or operator of a stationary source that is or will be subject to any standard, limitation or prohibition established by Regulation 38 and ensures consistency of Subpart A with federal changes expected in April 2003. Contact James Snead, 323-4542

2002-08: Pollution Control Strategy (PCS) for implementing nutrient load reductions set by the TMDL for the Murderkill River and its tributaries. The PCS will cover activities in the entire watershed, including land areas draining into Browns Branch, Double Run, tidal and freshwater portions of the Murderkill River and several ponds and lakes. This regulation will establish actions to achieve the maximum nutrient loading and is necessary to improve water quality and attain the fishable and swimmable goals of the federal Clean Water Act. Contact John Schneider, 739-4590

2002-07: Pollution Control Strategy (PCS) for implementing nutrient load reductions set by the TMDL for the Nanticoke River, Broad Creek and their tributaries. The PCS will cover activities in the entire watershed. This regulation will establish actions to achieve the maximum nutrient loading and is necessary to improve water quality and attain the fishable and swimmable goals of the federal Clean Water Act. Contact John Schneider, 739-4590

2002-06: Pollution Control Strategy (PCS) for implementing nutrient load reductions set by the TMDL for Indian River, Indian River Bay, Rehoboth Bay and their tributaries. This regulation will establish actions to achieve the maximum nutrient loading and is necessary to improve water quality and attain the fishable and swimmable goals of the federal Clean Water Act. Contact John Schneider, 739-4590

2000-23: Amendments to Regulation 24, Control of Volatile Organic Compound (VOCs) Emissions. This action would add a new section to the air pollution control regulations in order to control VOC emissions from lightering operations. Lightering is the transfer of cargo (usually crude oil) from ocean going vessels to service barges to allow the vessels to proceed upriver. During the cargo transfer, uncontrolled VOCs are emitted. This action is being developed to obtain additional VOC emission reductions for meeting Delaware's 1-hour ozone attainment. Contact James Snead – 323-4542

DNREC Division Directors:

Kevin Donnelly - Director, Division of Water Resources
Robert S. Baldwin - Director, Division of Soil and Water Conservation
Patrick J. Emory - Director, Division of Fish and Wildlife
Charles A. Salkin - Director, Division of Parks and Recreation
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DNREC Public Affairs Office

Maria A. Taylor, Director

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Comments are invited and should be sent to: Melinda Carl, Editor,
DNREC NEWS, 89 Kings Highway, Dover, DE 19901
Telephone: 302-739-4506; Fax: 302-739-6242
www.dnrec.state.de.us

DNREC News Staff

Editor: Melinda Carl

Staff Writers and Contributors: Kathleen Jamison, Jennifer Knotts, Melanie Rapp

Production: Christy Shaffer

Printing: Grace Dowell

Circulation: Margie Witherspoon

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89 Kings Hwy.
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